

(i) *Construction.* Nothing in this part should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, or any other public insurance program.

(Authority: 20 U.S.C. 1412(a)(12)(A), (B), and (C); 1401(8))

§ 300.143 SEA implementation of procedural safeguards.

The State must have on file with the Secretary the procedures that the SEA (and any agency assigned responsibility pursuant to § 300.600(d)) follows to inform each public agency of its responsibility for ensuring effective implementation of procedural safeguards for the children with disabilities served by that public agency.

(Authority: 20 U.S.C. 1412(a)(11); 1415(a))

§ 300.144 Hearings relating to LEA eligibility.

The State must have on file with the Secretary procedures to ensure that the SEA does not make any final determination that an LEA is not eligible for assistance under Part B of the Act without first giving the LEA reasonable notice and an opportunity for a hearing under 34 CFR 76.401(d).

(Authority: 20 U.S.C. 1412(a)(13))

§ 300.145 Recovery of funds for misclassified children.

The State must have on file with the Secretary policies and procedures that ensure that the State seeks to recover any funds provided under Part B of the Act for services to a child who is determined to be erroneously classified as eligible to be counted under section 611(a) or (d) of the Act.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§ 300.146 Suspension and expulsion rates.

The State must have on file with the Secretary information to demonstrate that the following requirements are met:

(a) *General.* The SEA examines data to determine if significant discrepancies are occurring in the rate of

long-term suspensions and expulsions of children with disabilities—

(1) Among LEAs in the State; or

(2) Compared to the rates for non-disabled children within the agencies.

(b) *Review and revision of policies.* If the discrepancies described in paragraph (a) of this section are occurring, the SEA reviews and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act.

(Authority: 20 U.S.C. 612(a)(22))

§ 300.147 Additional information if SEA provides direct services.

(a) If the SEA provides FAPE to children with disabilities, or provides direct services to these children, the agency—

(1) Shall comply with any additional requirements of §§ 300.220–300.230(a) and 300.234–300.250 as if the agency were an LEA; and

(2) May use amounts that are otherwise available to the agency under Part B of the Act to serve those children without regard to § 300.184 (relating to excess costs).

(b) The SEA must have on file with the Secretary information to demonstrate that it meets the requirements of paragraph (a)(1) of this section.

(Authority: 20 U.S.C. 1412(b))

§ 300.148 Public participation.

(a) *General; exception.* (1) Subject to paragraph (a)(2) of this section, each State must ensure that, prior to the adoption of any policies and procedures needed to comply with this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities consistent with §§ 300.280–300.284.

(2) A State will be considered to have met paragraph (a)(1) of this section with regard to a policy or procedure needed to comply with this part if it